Ninety-Seventh Legislature - Second Session - 2002
Committee Statement
LB 905

Hearing Date: February 27, 2002
Committee On: Revenue

Introducer(s): (Wickersham, Coordsen, D. Pederson, Wehrbein)
Title: Change estate and generation-skipping transfer tax provisions

Roll Call Vote – Final Committee Action:

	Advanced to General File
X	Advanced to General File with Amendments
	Indefinitely Postponed

Vote Results:

5	Yes	Senators Hartnett, Janssen, Landis, Raikes and Wickersham
1	No	Senator Redfield
1	Present, not voting	Senator Dierks
1	Absent	Senator Coordsen

Proponents:	**Representing:**
Senator William R. Wickersham	Introducer

Opponents:	**Representing:**
Robert J. Hallstrom	National Federation of Independent Business
Greg Ruehle	Nebraska Cattlemen

Neutral:	**Representing:**
None	

Summary of purpose and/or changes:

LB 905 would amend the Nebraska estate and generation-skipping transfer tax to retain these taxes even though federal law eliminates them over the next three years. Currently, under the Economic Growth and Tax Relief Reconciliation Act of 2001, the state death tax credit, upon which all state estate taxes are based, will be reduced by 25 percent in 2002, 50 percent in 2003, and 75 percent in 2004. In 2005, the entire state death tax credit is to be eliminated, thus repealing all state estate taxes that are based upon utilizing the maximum available state death tax credit, like Nebraska. Under the federal law, the federal estate tax rates are reduced from 55 percent to 45 percent and the exemption amount increased to $2 million by 2007, but the tax is not repealed until 2010.

Section by section summary

Section 1 would amend section 77-2101 (the definitions) to strike references to federal estate tax liability and provide two new definitions. Nebraska taxable estate is to be the federal taxable estate as determined under Chapter 11 of the Internal Revenue Code of 1986 minus an exemption amount of $1 million. Nebraska taxable transfer is to be the federal taxable generation-skipping transfer as determined under Chapter 13 of the Internal Revenue Code of 1986, minus an exemption amount of $1 million. In this way, the calculation of the amount of the transfer still references federal law, but the requirement that the transfer give rise to federal liability is eliminated.

Section 2 would amend section 77-2101.01 to strike the estate tax amount as being equal to the maximum death tax credit available after other inheritance taxes are deducted. Instead, the tax amount is as calculated in section 4.

Section 3 would amend section 77-2101.02 to strike the transfer tax amount as being equal to the maximum death tax credit available after other transfer taxes are deducted. Instead, the tax amount is as calculated in section 4.

Section 4 is a new section that provides a rate table for the state estate tax. The tax rate ranges from .8 percent for taxable estate amounts between $40,000 and $90,000 to 16 percent for taxable estate amounts greater than $10,040,000. The tax rate for generation-skipping transfers is 16 percent.

Section 5 would amend section 77-2102 to harmonize a reference to the tax calculation in section 4 and to change the due date for a generation-skipping transfer tax return from the due date of the federal return to 12 months after the transfer.

Section 6 would amend section 77-2103 to harmonize a reference to the tax calculation in section 4 and eliminate a limitation on the tax amount that prohibits the tax from ever being greater than the maximum credit available under federal law.

Sections 7, 8, and 9 would amend sections 77-2104, 77-2105, and 77-2108 to harmonize references to the tax calculation in section 4. Section 8 also changes a duty to report probate matters to the Tax Commissioner from county judges to county attorneys.

Section 10 would amend section 77-2113 to harmonize references to the tax calculation in section 4 and strike a requirement that the personal representative that files the return be the same person that is required to file the federal return. The requirements for the state return to include the federal return would be modified to require attaching the federal return, “if any.” With regard to the generation-skipping transfer tax, (1) the due date of the return is changed from the due date of the federal return to 12 months after the transfer, and (2) the person required to file the return is changed from the person that filed the federal return to the transferee.

Section 11 would provide that the changes made by the bill be effective for decedents dying and generation skipping transfers made on and after July 1, 2002.

Section 12 would provide an operative date of July 1, 2002.

Section 13 would repeal the original sections, and

Section 14 would declare an emergency.

Explanation of amendments, if any:

The Committee amendments change the bill to be operative for decedents dying on or after January 1, 2003 rather than July 1.

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Senator William R. Wickersham, Chairperson